

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-743

DATE OF INTRODUCTION:

January 8, 2002

SPONSOR:

Assemblyman Cottrell
Assemblyman Malone, III

DATE OF RECOMMENDATION:

February 26, 2002

IDENTICAL BILL:

COMMITTEE:

Assembly Environment and Solid Waste Committee

DESCRIPTION:

This Bill exempts maintenance of residential septic systems from sales tax.

ANALYSIS:

The Bill amends N.J.S.A. 54:32B-3(b)(4) (taxability of maintaining, servicing or repairing real property) by excluding the service of maintaining a residential septic from sales tax.

This exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity mandates that sales tax legislation be broadly based and taxes similar transactions, persons or things in a similar manner. Tax treatment should be uniform from one taxpayer to another. Most other routine maintenance services performed at the home are taxable. Thus, providers of other home maintenance services may seek an exemption as well. This could lead to a trend toward eroding many of the current taxable services provided in the Sales and Use Tax Act. By only providing an exemption to a specific group, the proposal creates a disparity between residential owners of septic systems and residential privately owned sewer systems that are not included in the exemption. Thus, residential owners who pay a fee to the municipality for the use of a sewer system may complain that the Bill violates the concept of horizontal equity by giving a benefit to a similarly situated group.

According to a statement to the Bill, the sales tax exemption is intended to apply only to the service of pumping out a septic system. However, the exemption as provided in the Bill is broad enough to cover any maintenance of a residential septic system and perhaps repairs to the system as well. This appears to be beyond what may be intended by the proposal.

If apartment dwellings serviced by a septic system also seek the exemption, the proposal may create a slippery slope because owners of commercial properties may be lead to also seek a similar tax exemption.

In addition, the expanded exemption would further alter the broad-based nature of the sales and use tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and “fair.” When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. An exemption for the maintenance of residential septic systems would save an individual taxpayer a fairly insignificant sum every year. However, the cumulative loss of revenue to the State estimated at between \$3 and \$3.5 million annually is substantial, leaving the State to find other means of generating the money lost as a result of an expanded exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 8

COMMISSION MEMBERS ABSTAINING: 0

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